

EXHIBIT I

A & E LEGISLATIVE REVIEW COMMITTEE MEETING

January 15, 2004 / 2:30 PM

5th FLOOR CONFERENCE ROOM

MINUTES -- MEETING #2

Present: See attached sign-in list
Representative John Cook, Chair
Representative Susan Austin, Member
Pat Adauto, Deputy CAO
Raymond Telles, Assistant City Attorney
Irene Ramirez, Interim City Engineer
Meeting started @ 2:35 pm

Representative Cook opened the meeting asking Ms. Adauto to recap highlights of the last meeting held on October 22nd. She stated at that time they presented highlights of changes to the current Ordinance and reviewed the changes made up to Section 2.88.080, where we left off at the last meeting.

She stated the discussion in the initial meeting was in regard to having firms pre-qualified through the Engineering Department and it would be up to the firm to maintain the information current. After qualifying they will be "forever" on the list to be notified of projects coming up.

Section 2.88.050

Ms. Adauto recapped the discussion in the last meeting regarding the project values. Projects up to \$500,000 would be selected through the short list, and those above \$500,000 would be done through the selection committee.

Section 2.88.060

Discussion was had at the last meeting regarding the structure of the Evaluation and Selection Committees. The proposals are to have individuals with expertise on this committee, and removing City Council Representatives from the Committee.

Section 2.88.070

The Evaluation Factors described in this section was the last item discussed at the previous meeting, and we continued on from this section.

Representative Cook stated he would like to hear the private sector's opinion as to the discussions so far. Some individuals stated the City wastes a lot of time and money, and so do they, in trying to obtain a job, to turn in paperwork and propositions and so forth. He felt the city is fairly familiar with the firms in town, and for routine work, they should just be rotated, as EPISD and the City of Dallas does. There was also discussion as to the monetary amount of the projects, some people stating one-half million dollar projects are "tiny" and it is a waste of time to go through the entire process for projects so small. Mr. Telles stated the Professional Services Procurement Act has language as to the selection of qualified firms, in which you have to find the highest qualified firm and go with that. He stated the Act doesn't allow for random selection, however, he was asked by Representative Cook and people in the audience to look further into it, because if the school districts here in El Paso can do this, why not the City? He stated TxDot and school districts are under specific statutes which allow for such selection procedures, but he

would look further into this matter, to which Representative Cook stated he would ask the State Representative to request an Attorney General's interpretation.

At this Representative Cook asked for a **show of hands** as to the pre-qualification issue alone. Representative Cook stated the Ordinance reads that the City Engineer make the selection from pre-qualified list for projects less than \$500,000. Representative Cook asked who was in favor or in opposition to have the City Engineer, the Chief Architect and the Building Permits and Inspections Director be included in the process and almost everyone agreed. There was discussion as to raising the amount to \$750,000 or maybe even one million dollars. Mr. Telles stated he had concerns going to one million dollars, in that the higher they go the more open the city is to scrutiny about the selection process.

Representative Cook asked for a **show of hands** in support for the membership of the Evaluation Committee, which would consist of the Assistant City Engineer; Construction Division Manager – Engineering Department; Design Section Chief – Engineering Department; User Department Representative; Building Permits & Inspections Director and a Licensed Representative from a Local Architectural and Engineering Community; and an Agency Representative. There was no opposition to the makeup of this Committee.

Representative Cook again asked for a **show of hands** in support of how the Selection Committee was outlined in the Ordinance, as follows: The City Engineer – Chair; Chief Architect - Vice Chair; Chief Administrative Officer; a User Department Director; and a licensed Representative from a local architect and engineering community. There were two hands in opposition to the makeup of this Committee.

Section 2.88.080

Discussion was had in reference to the evaluation of firms described in this section of the ordinance. There was concern that some individuals could "kill it" or "make it" for a firm. The scoring process was discussed, about the pros and cons of "scoring" as opposed to "ranking". Members of the audience were also concerned about receiving copies of the scoring sheets from the city without a "records request". Discussion was also had as to whether it was better to score and then rank the presentations, or whether a scoring sheet should be submitted immediately after each presentation, as opposed to submitting the scoring sheets after all the presentations are heard. Members of the audience stated it was hard to score without hearing everyone first. Ms. Austin stated she couldn't see how anyone could rank a presentation without scoring it first, as she stated the ranks are the results of the scoring. It was decided that the scoring be done the way it is done now, Ms. Adauto stated she has no objections to the ranking system and she also has no objections to giving out score sheets.

Section 2.88.090

Discussion was had in this section regarding the time restrictions of a submittal. A question was asked as to the 5 working days the city took to notify the highest qualified firm, and why they were allowing only 10 working days to prepare for a presentation. It was stated the hard part was not preparing for the presentation, but getting all the people needed, sometimes from out of town, and clearing calendars was the most difficult part. Everyone felt this part should be worded "a minimum of 10 days".

Section 2.88.100

This section simply states every firm may appeal directly to the City Council of the City of El Paso should they feel that any selection was done improperly.

Ms. Adauto stated there are protest procedures currently in place to the Chair of the A&E Committee. Ms. Austin asked why put the politics back into the equation when they are getting

rid of the politicians within the committee? Ms. Adauto explained that from the input within the community she discovered that the firms would rather appeal to someone else besides the same committee they just went through. Some members of the audience said they would like City Council to listen to why they feel the process selection was unfair, while others stated they wanted the appeal to occur within a very short time from the selection. If appealing to the City Council, the process will take more in that it requires a 72-hour posting.

At this Representation Cook asked for a show of hands as to who was opposed to City Council being the body to appeal any selection? Most approved, only 2 were opposed.

Section 2.88.110

This section deals with selections in case there is only one firm that makes a submittal. There were no objections.

Review of the changes to this Ordinance, pursuant to the first legislative review meeting were summarized by Ms. Adauto as follows:

- The issue of adding language for open-end contracts was discussed, and Ms. Austin suggested to keeping them for now until we see how this new Ordinance works out. She stated we don't have to decide now. Members of the audience stated these contracts are a balancing side of what we are proposing, and then the work should just be rotated; and open-ended contracts should be permitted for time-sensitive projects only;
- Ms. Adauto stated she is adding language in the Ordinance to include all notices must be in writing and by certified mail;
- All members will turn in their score sheets and they will be tallied to come up with a rank, the same way it is done now;
- Add the work load as a factor in selection firms for small projects;
- They will replace the CAO with the Director of Building Permits & Inspections within the Selection Committee and place the Assistant Director of BP&I in the Evaluation Committee;
- Delete number 3 from the Project Plan portion of the Evaluation Factors and divide those points evenly into numbers 1 and 2 of Project Plan;
- The Evaluation Committee Chair will decide how many firms (between 3-5) go on to the Selection Committee;
- Add different evaluation factors for the selection of geotechnical/materials testing agreements.

There was discussion about a motion from the legislative review in support of the Ordinance as revised. Representative Cook stated, however, that he would not make such a motion but would note for the record that the AE Community has been very active in its revision and is supportive of the Ordinance as revised. Representative Cook also directed staff to present the revised Ordinance to Council within three weeks.

At this, Representative Cook stated the minutes to this meeting as well as the previous meeting would be circulated via e-mail to all attendees, and meeting was adjourned at 4:13 pm.

